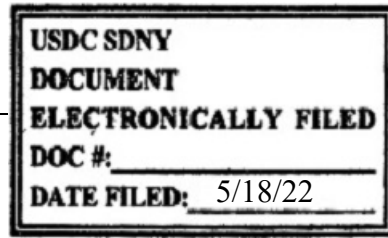




U.S. Department of Justice



United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

May 18, 2022

By ECF

The Honorable Barbara C. Moses
United States Magistrate Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Re: *Diaz v. Decker, et al.*, No. 22 Civ. 3063 (VSB) (BCM)

Dear Judge Moses:

This Office represents the government in the above-referenced immigration habeas matter. The government's opposition in response to the habeas petition is due on May 18, 2022. I write respectfully, with the petitioner's consent, to request permission to file under seal a declaration regarding the petitioner's medical and mental health status and treatment, which also attaches his medical records from the detention facility. Consistent with this Court's Individual Rules, these documents will be filed under seal on ECF and electronically related to this letter motion. The medical declaration that the government requests permission to file under seal, as well as the accompanying medical records themselves, discuss petitioner's medical and mental health in significantly more detail than his habeas petition.

The government respectfully submits that sealing is appropriate notwithstanding the presumption of access discussed by the Second Circuit in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119–20 (2d Cir. 2006), in light of the privacy interests of individuals in their medical records. *See, e.g., Barnwell v. FCI Danbury*, No. 3:10 Civ. 01301 (DJS), 2011 WL 5330215, at *5 (D. Conn. Nov. 3, 2011) (noting a rebuttable presumption of openness of court filings but granting motion to seal in light of federal law's treatment of such records as confidential pursuant to the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191 (1996)). Courts in this District have permitted the sealing of medical records, even if specific details relating to the individual's health appear on the record. *See, e.g., United States v. Needham*, 460 F. Supp. 3d 323, 324 n.1 (S.D.N.Y. 2020); *United States v. Estevez*, No. 18 Cr. 669 (JPO), 2020 WL 1911207, at *1 (S.D.N.Y. Apr. 20, 2020).

I thank the Court for its consideration of this request.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: /s/ Tara Schwartz
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cc: Counsel of record (via ECF)

Application GRANTED. Defendants are permitted to file the declaration under seal.
SO ORDERED.

A handwritten signature in blue ink, appearing to read "Barbara Moses", is written over a horizontal line.

Barbara Moses
United States Magistrate Judge
May 18, 2022